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Department of Revenue

OFFICE Board of Revenue

STATION Bangalore

Li No. 594 (m)

Dated 21 - 10 - 42

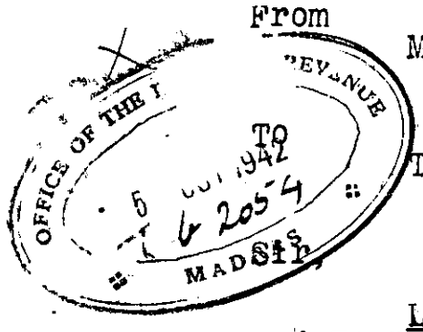
28 OCT 1942

SUBJECT

Land Acquisition (Land Revenue) Bangalore
T. D. K. and Town L.A. Case Nos 13, 14, 15, 17 & 18 of 1941
Sub Court Civil Kolar Enhancement V

H/Head unnecessary

R.O.C.No.1976-E2-40. South Kanara Collector's Office,
Mangalore, 28th September 1942.



From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board of Revenue,
Land Revenue & Irrigation, Madras.

Land Acquisition - (South Kanara) - Mangalore Taluk and Town - Attavar village - T.S.Nos.697/A1A etc. - L.A.C.Nos 13,14,15,17 & 18 of 1940 of Subordinate Court. South Kanara - enhancement of compensation.

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Thirty six subdivisions in all were acquired by the Revenue Divisional Officer, Mangalore, on behalf of the Municipal Council, Mangalore, for the Falneer Town Planning Scheme in his L.A.C.10/39 and 3/1940. There were 5 references to the Court under Section 18 of the Land Acquisition Act and these have been disposed of by the Subordinate Judge South Kanara, in his L.A.C.Nos.13,14,15,17 & 18 of 1940. The compensation payable in these cases has been enhanced by Rs.74.15.11, 74.0.1, 217.10.10, 478.13.0 and 530.0.1 respectively over and above that awarded by the Land Acquisition Officer.

2. The Municipal Council has resolved that no appeal need be preferred against the order of the Subordinate Judge. The Government Pleader, Mangalore is of opinion that the judgment is more favourable to the Government than to the parties and hence no appeal need be filed. The Revenue Divisional Officer, Mangalore, who was the Land Acquisition Officer, is also of the same view. On a careful scrutiny of the connected records and the orders of the Subordinate Judge, I submit that it is not worthwhile to prefer any appeal.

3. I enclose printed copies of the Land Acquisition Officer's award proceedings in his L.A.C.10/39 & 3/40, certified copies of the orders of the Subordinate Judge and Mangalore Revenue Divisional officer's file R.Dis. 4275-42 which contains the orders of the Subordinate Judge. Copies of (1) Mangalore Government Pleader's letter, Ref.No A-513-42, dated 28.7.1942, (2) Mangalore Revenue Divisional Officer's R.O.C.4275/42, dated 2.9.1942 and (3) Mangalore Municipal Council's resolution No.19, dated 24.8.1942 are also enclosed.

4. The particulars required under B.S.O.95-1(ii) are furnished below:-

Date of orders and decree.	25.7.42.
Date of application for copies.	28.7.42.
Date on which copies were ready for delivery to the Vakil.	14.8.42.
Date of receipt of the same by the Collector.	11.9.42.
Date on which the time allowed for the appeal expires.	9.11.42.
Explanation for delay where a clear fortnight is not allowed to the Board for the consideration of the case.	Does not arise.

For Collector.

Letter-from the Government Pleader and Public Prosecutor, Mangalore.
To-the Collector of South Kanara, Mangalore.
Dated-Mangalore, 28.7.1942.
No.-Ref.No.A-513-42.

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Land Acquisition - L.A.C.Nos.13,14,15,17 and 18 of 1940 on the file of the Subordinate Court of South Kanara.

Your Ref.B3-1976-40, dated 8.7.1942.

Orders have been passed in the above cases on 25th July 1942. In L.A.C.13/40 Land value has been enhanced from Rs.2500/- per acre to Rs.3500/- per acre as against Rs.5000/- per acre claimed by the party. The cost of putting up new walls amounting to Rs.100/- claimed by the party has been disallowed. A sum of Rs.30/- as damages for tree growth being rendered useless, has been awarded as against Rs.55/- claimed by the party. The claim of Rs.100/- for old walls as against Rs.37.1.9 awarded by the Land Acquisition Officer has also been disallowed.

(2) IN L.A.C.14/40 the land value has been enhanced from Rs.2500/- per acre to Rs.3500/- per acre as against Rs.5000 per acre claimed by the party. The claim for enhanced compensation for mud walls has been disallowed.

(3) In L.A.C.No.15/40 land value has been enhanced from Rs.3000/- per acre to Rs.4000/- per acre as against ------ Rs.5000/- per acre claimed by the party. A sum of Rs.200/- has been allowed as the cost of the old private road for which the party claimed Rs.1000/-. The cost of repairs to the road amounting to Rs.386.6.1 claimed by the party has been disallowed.

(4) In L.A.C.17/40 Land value has been enhanced from Rs.3500/- to Rs.4500/- in the case of T.S.No.708/2 and from Rs.3000/- to Rs.4000/- per acre in the case of T.S. No.719/2 and 710/2 as against Rs.5000/- claimed by the party. Out of Rs.1000/- claimed as the cost of old road Rs.200/- has been allowed. A sum of Rs.250/- claimed as damages for severance and injurious affection has been disallowed.

(5) In L.A.C.No.18/40 land value has been enhanced from Rs.2500/- to Rs.3500/- as against Rs.5000/- per acre claimed by the party. Rs.200/- has been allowed out of Rs.1000/- claimed as the cost of the old road. A sum of Rs.326/- as the cost of two mud walls and a sum of Rs. 386.6.1 as the cost of repairs of the road claimed by the claimant have been disallowed. The party's claim for damages for severance at half the value of 1 acre 20 cents has also been rejected as the Court was satisfied on a local inspection that no such damage could result to the property.

(6) The amount payable in L.A.C.Nos.13,14,15,17 and 18 of 1940 over and above what was awarded by the Land Acquisition Officer is Rs.74.15.11; Rs.74.0.1; Rs.217.10.10; Rs.478.15.0 and Rs.530.0.1 respectively. The claimant in each case is entitled for interest on the said amounts at 6% per annum from the date of the taking possession, until the deposit of the amount in court. The amounts have to be deposited in Court in three months.

(7) In every case, each party is to bear the costs.

Onthe whole, I am satisfied that the Governm have substantially succeeded. It looks to me that more for the claimants to appeal than for the Gov

I am filing an application for copies for appeal in each case today. Should you however feel that no appeal is necessary, I may be so informed within a week, in which case the cost of copies for appeal may be saved.

/True Copy/

For Collector.

Extract from the Proceedings of the Mangalore Municipal Council, dated the 24th August 1942.

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19. Read letter R.O.C.1976-40-E2, dated the 31st July 1942 from the Collector of South Kanara enclosing a copy of the Government Pleader's letter, Ref.No.A-513-42, dated the 28th July 1942 on the orders passed by the Subordinate Judge of South Kanara on the L.A.Cases 13 14,15,17 and 18 of 1940 (extending the Britto lane in Falneer) and requesting to let him know the opinion of the Council whether it desires that an appeal should be filed and if so whether it is prepared to bear the charges of litigation of the appeal.

The Council does not desire to file an appeal. Copies of the orders may be applied for for reference.

xx xx xx

Sd/- B.Venkatarao B aliga,
Chairman, M.C.,
24.8.1942.

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Letter-from the Revenue Divisional Officer, Mangalore.
To-the Collector of South Kanara.
Dated-Mangalore, 2nd September 1942.
No.-R.O.C.4275/42.

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Suits - Land Acquisition - Mangalore Taluk - Attawar village - L.A.C.Nos.13,14,15 17 and 18/40 on the file of the Subordinate Court, South Kanara - Disposal Appeal - Remarks.

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Your R.O.C.1976/40/D2, dated 31.7.1942.

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I see no grounds for appeal in this case and agree with the Government Pleader in his opinion. The ------- Municipal Council on whose behalf ø the lands were ------ acquired does not intend appealing against the judgment passed by the Subordinate Judge in the above cases.

/True Copy/

For Collector.

Ref. 4385-39-M.
L. A. C. 10/39.

Proceedings of the Revenue Divisional Officer and Land Acquisition Officer, Mangalore, dated 11th May 1940.

Sri C. Balagurunatham Pillai, B. A.

LAND ACQUISITION—Mangalore Taluk and Town—Attavar village—Falneer Town Planning Scheme—Road A A 8 of the Scheme—Extending and widening the Britto Lane at Falnir—Acquisition under the Town Planning Scheme on behalf of the Mangalore Municipality—Award passed.

Ref. C. No. 9775-39 dated 31—8—1939 from the Commissioner, Mangalore Municipality.

I. GENERAL:—This is a case in which the acquisition is to be done under the Land Acquisition Act, as modified by Chapter VII of the Madras Town Planning Act, 1920 as amended. According to Section 34 of the Town Planning Act a Notification of the Town Planning Scheme in question by the Local Government under section 14 shall operate in respect of any land required for the purposes of the scheme as a declaration under section 6 of the Land Acquisition Act and no further declaration shall be necessary. In this case, therefore, there has been no declaration under section 6 of the Land Acquisition Act.

2. The Town Planning Scheme in question is called the "Falnir Town Planning Scheme". In G. O. No. 352 Ms. P. H. dated 14—2—1928 the Local Government directed the Mangalore Municipality to make Town Planning Scheme in respect of the area known as Falnir situated within the Municipality of Mangalore. The notification under section 12 was published on 21—2—1928 as required by section 12 of the Town Planning Act. The sanction of the Local Government for the scheme under section 14(3) of the Town Planning Act was accorded in G. O. No. 1631 P. H. dated 3—5—1937 and the notification approving the scheme was published at pages 281-284 of the Fort St. George Gazette Part I-A dated 18—5—1937 as required by subsection 5 of section 14 of the Town Planning Act. Under Section 34 of the Town Planning Act the acquisition has to be completed within 3 years of the publication of the notification under section 14 i. e., by 17—5—1940.

3. According to rule 7 of the scheme rules approved by the Government in the said G. O. the notification under section 14 of the Town Planning Act is to operate as a declaration under section 6 of the Act in respect of all or any of the lands mentioned in schedule I of the G. O. in so far as they are required for the public purposes noted in schedule VI. The lands to be acquired in these proceedings are included in G. O. No. 1631 P. H. dated 3—5—1937 and the Revenue Divisional Officer, Mangalore has been appointed as the Land Acquisition Officer in G. O. Ms. No. 1088 P. H. dated 18—3—1940 and has been directed to take order for the acquisition of these lands.

II. BASIS FOR VALUATION:—Under subsection 2(a) of section 35 of the Town Planning Act the market value of the land to be awarded is the value on the date of the notification under section 12 of the Act which in this case is 21—2—1928. It is not the present value that I have to award but the value as it was 12 years ago and even improvements effected after the date of the notification have to be excluded under section 35(3) (f) of the Town Planning Act for valuation purposes unless they are covered by a permission under section 17 of the Town Planning Act. Another variation and special feature in these proceedings as compared with the ordinary proceedings under the Land Acquisition Act is that 15% solatium for compulsory acquisition as required by section 23(2) of the Land Acquisition Act is not to be awarded—vide section 35(1) of the Town Planning Act.

2. The lands to be acquired in this case are in Falnir beginning from the Falnir Road and terminating at the Bishop Victor Road near the Jeppoo Seminary passing through Kaprigudde. A lane called the "Britto Lane", however, exists from the Falnir Road for some distance and in continuation thereof the path runs in private lands. It is for the widening of this lane where necessary, acquiring the

path in private land and for extending this lane and acquiring lands in patta wet fields till it meets the Bishop Victor Road that the Municipality wants to compensate the owners. The plots under acquisition do not contain except in one case any residential houses or substantial buildings rented out to anybody. I do not therefore think it necessary to value the property on rental basis by capitalising the net income. The lands will thus be valued separately on the basis of sale deeds executed in or about the year 1928 and the other improvements will be valued separately on their estimated cost.

3. As regards the valuation for lands there are a few sale deeds but they cannot be taken as basis either because (1) those lands are situated far from the properties now affected or the extent sold is either an adjunct to a valuable property though the extent is trifling and (2) lands were sold with buildings and those buildings have either been demolished or rebuilt. The lands under acquisition may be grouped into two major groups according to their situation viz. (1) Lands having easy access to the existing main roads and (2) lands situated either near that road or far away in the interior abutting a lane or not abutting any lane or public passage. Under group I a distinction has to be made between lands actually abutting the main road and lands which are slightly beyond but having easy access to it. Lands under group II are those abutting a lane leading to the main road or those which do not open into any such lanes. The sale deed executed in 1928 in respect of T. S. No. 30/1 abutting the Sturrock Road and lying within a furlong from T. S. No. 2/2B similarly situated gives a fair estimate in fixing the value of Land abutting main roads. T. S. No. 30/1 measuring 7½ cents was sold in 1928 for Rs. 615/- and the value of the trees contained in the plot at that time is learnt to have been about Rs. 315/-. The value of 7½ cents of bare land is therefore Rs. 300/- which works out to Rs. 4000/- per acre. Roughly therefore the land value of T. S. No. 30/1 is estimated at Rs. 4,000 - per acre. This valuation has been treated as a basis in respect of lands identical and similar to it and the lands which possess lesser amenities have been valued at a proportionately lesser rate. Apart from the sale statistics referred to above I may refer to certain other transactions appearing from the records available in this office.

(i) Award passed by the Revenue Divisional Officer, Mangalore in L. A. C. 5/36 for widening the Sturrock Road with regard to T. S. Nos. 10/A2, 2/1 & 3/1. He fixed the value of land at Rs. 4,000/- which corresponds to the land value worked out on the basis of the sale statistics. It may be noted that T. S. No. 2/2B under the present acquisition and T. S. No. 2/1 acquired in L. A. C. 5/36 are portions of the same T. S. No. and T. S. No. 2/2B the plot abutting the Falnir Road has to be fixed at Rs. 4,000/- per acre. This is the only plot in this which abuts the main road.

(ii) Award passed by the Revenue Divisional Officer, Mangalore in L. A. C. 14/38 is of course of a later date than 1928—for extension of Bishop Victor Road with regard to T. S. Nos. 611/A3 B1, A3 B2, C2, C3 and C4 in which he awarded compensation for the land at Rs. 2,500 per acre. This valuation can safely be adopted for T. S. Nos. 659/2 and 611/C1A on account of their close proximity and similarity of conditions. The plots lying in the interior of the two latter plots which do not possess the same amenities are those coming under group II which will therefore be fixed at Rs. 2,000/— per acre. The lands under group I which do not abut the main road T. S. Nos. 532/5A, 534/1 and 4/1B but they have got moderately easy access to the main road. The value of these three plots will be fixed at Rs. 3,5000/— per acre. The lands under group I lying farther away beyond the main road are T. S. Nos. 535/1, 537/1, 2 & 695/2 for which I find Rs. 3,000/— would be an adequate rate. The interior lands referred to above are T. S. Nos. 697, 698/2, 674/2, 675/1, 673/2, 656/C2, 655/2, 662/2 and 660/1. A distinction has however to be made between T. S. Nos. 697 and 698 under one head and T. S. Nos. 674/2, 675/1, 673/2, 656 C2, 655 2 and 662/2 and 660/1 under another head inasmuch as their amenities are concerned. The plots under the first lot are more valuable in that they have slightly easier access to the road than those under the second lot but not as much as those of T. S. Nos. 535/1, 537/1, 2 & 695/2 for which I fixed land value at the rate of Rs. 3,000/— per acre. On this analogy I propose to fix rate of Rs. 2,500/— per acre in respect of T. S. Nos. 697 & 698/2 and at Rs. 2000 — per acre in respect of T. S. Nos. 674/2, 675/1, 673/2, 656/C2, 655/2, 662/2, 660/1. Moreover, T. S. Nos. 673/2,

656/C2, 655/2 are registered as wet fields in the Revenue-accounts and are not in a state of being converted into building sites at any rate. They are fit only for agriculture and the rate of Rs. 2000/- is a liberal estimate for such fields.

III TRUE AREA OF THE LANDS. Having fixed the value of the different groups of the fields under acquisitions and having stated my reasons for the valuation I propose to proceed with the question of the true area of the fields, the ownership and claims of the respective claimants. The plots under acquisition in this case and their actual areas as computed by the Inspecting Tahsildar are shown below:—

T. S. No.	Actual extent in Sq. Ft.
2/2B	2,178
532/5A	150
534/1	1,089
4/1B	927
535/1	871
537/1	1,089
537/2	436
695/2	4,356
697 A1A	2,178
A1B	82
A2A	1,960
A1C	371
A1D	501
F	4,356
698/2	436
674/2	6,752
675/1	92
673/2	1,198
655/2	5,990
656/C2	5,227
662/2	1,306
660/1	1,198
611/C1A	2,178
659/2	1,525

None of the persons interested dispute the correctness of the area and I accept the actual areas computed by the Inspecting Tahsildar as the true area of the lands in question.

IV. COMPENSATION TO WHOM PAYABLE.

(1) T. S. NO. 2/2B stands registered in the name of Mrs. Lucy Mary Agnes Saldanha. The plot contains the following improvements.

			Rs. A. P.
Compensation for a portion of a building occupied by David Souza and used as a Soda shop			65 4 0
One shed with pent roof			10 0 0
Manure pit with a thatched shed over it			6 0 0
Portions of laterite walls (damaged)			17 14 5
Portions of mud walls			22 8 0
1 cocoanut tree (big)	10 0 0		
do (small)	8 0 0		
3 Jack trees	10 0 0		
1 teak tree	3 0 0		
Other plants	2 0 0		
	33 0 0		33 0 0
		Total	154 10 5

The owner claims the value of the shop building at Rs. 500/- the shed at Rs. 100/-, the tree growth at Rs. 60/- and the boundary walls at Rs. 300/-. She has not furnished any data in support of any of her valuations. The value of the building under acquisition was estimated on the basis of the plinth area. It is an old building with tiles on palmyra rafters for the roof. In consideration that a portion

of the building is to be acquired I award Rs. 50/- as damages due to severance. She claims land value at the rate of Rs. 10,000/- per acre for which also no basis for her valuation is given by her. Her claim is excessive and unreasonable. In the result I award the following compensation for the plot:—

		Rs.	A.	P.
Land, 2178 sq. ft. at Rs. 4000/- per acre		200	0	0
Value of the improvements detailed above		154	10	5
Damages due to severance of the shop building ...		50	0	0
	Total	404	10	5

David Souza to whom the shop was rented out is only a chalgeni tenant and he has not responded to the notice under sections 9 (1) (3) and 10 of the Land Acquisition Act though personally served on him. He is not therefore entitled to receive any compensation. The plot is however mortgaged to the Director of Father Muller's Charitable Institutions, Kankanadi and the mortgager (the registered holder) has no objection to the amount of compensation being paid to the mortgagee in deduction of the mortgage amount. The mortgagee has filed a statement saying he is entitled to claim it. The compensation will, therefore, be awarded to The Rev. Reginald Pinto, Director of Fr. Muller's hospital, Kankanadi in deduction of the mortgage amount due to him from the owner of the plot.

2. T. S. NO. 532/5A. The plot stands registered in the Joint names of George D'Souza and Mary D'Souza and jointly owned by them. The plot contains only a boundary wall of mud valued by me at Rs. 15—4—10. The claimant Mary D'Souza claims Rs. 15/- for the wall. She, however, claims Rs. 100/- towards the cost of putting up a new boundary wall but the value fixed for the wall is that for a new wall of mud and her claim for Rs. 100/- is unreasonable especially when she admits that the cost of the existing wall is only Rs. 15/-. I dismiss her claim of Rs. 100/- and also her claim of Rs. 5/- for the "tree growth" which does not actually exist in the plot. The value of the land has been fixed by me at Rs. 3500/- for the reasons stated in section II of these proceedings. She claims it at Rs. 6000/- but she does not furnish any data in support of her valuation. I cannot accept her valuation. I award the following compensation in respect of the plot.

	Rs.	A.	P.
Land value for 150 sq. ft. at Rs. 3,500/- per acre ...	12	0	10
Mud wall	15	4	10
	27	5	8

George D'Souza has nothing to say about the valuation except that he agrees to that claimed by Mary D'Souza. They have not filed any statement regarding the apportionment of compensation due to them. The amount awarded will therefore be deposited under section 31 (2) of the Land Acquisition Act in the Court of the Sub Judge of South Kanara.

3. T. S. NO. 534/1.—Mrs. A. M. Saldanha Bai is the registered holder and owner of this plot. The improvements existing in the plot are detailed below:—

	Rs.	A.	P.
Laterite walls partly in dry revetment and partly of masonry work	83	14	5
Mud wall with tiles	31	12	10
One wooden gate	3	0	0
Revolving iron wicket gate	3	0	0
Wild plants	1	0	0
	122	11	3

Besides this, it is found that one of the pillars of an outhouse which is considerably old and flimsy falls in the plot to be acquired. The cost of this pillar which is of laterite stones is estimated at Rs. 2/- and I fix a lump sum of Rs. 3/- towards the damages due to its severance. The claimant has not responded to the notice under sections 9 (1) (3) and 10 which was served on one L. Noronha who has accepted the notice on behalf of the claimant on 17—4—40. I, however, award the following compensation in respect of the plot.

	Rs.	A.	P.
Land value for 1089 sq. ft. at Rs. 3,500/- per acre ...	87	8	0
The value of the improvements as detailed above ...	122	11	3
Cost of the laterite pillar of the outhouse	2	0	0
Damage for its severance	3	0	0
	215	3	3

The compensation will be paid to Mrs. A. M. Saldanha Bai, the registered holder and owner of the plot.

4. T. S. NO. 4/1B. This plot belongs to Albert John Saldanha, who is the registered holder and owner of it. He does not claim any specific compensation. There is laterite wall revetment but the owner had agreed to remove and rebuild it at his cost and does not claim any compensation for the improvement. The value of the land alone measuring 927 sq. ft. at Rs. 3,500/- viz. Rs. 74—7—9 is awarded for the plot and it will be paid to A. J. Saldanha who is the owner of it.

5. T. S. NO. 535/1. Mrs. Piedade Mary Fernandes is the registered holder and owner of it. The plot contains the following improvements:—

				Rs.	A.	P.
Mud walls valued at				10	5	7
Laterite walls				8	11	2
2 wooden gate doors with iron bars (old)				4	0	0
TREES.						
1 Hale tree	1	0	0			
1 wild Mango tree	0	8	0			
Wild plants	0	8	0			
	2	0	0	2	0	0
Total				25	0	9

The notice under sections 9 (1) (3) & 10 of the Land Acquisition Act was accepted by T. G. A. Fernandes on 17—4—1940 on behalf of the registered holder Mrs. Piedade Mary Fernandes but she did not file any statement in response to the notice. I have fixed the value of the land at Rs. 3,000/— per acre for the reasons already set forth. In the result I award the following compensation for the plot:

	Rs.	A.	P
Land 871 sq. ft. at Rs. 3000/— per acre	59	15	9
The improvements detailed above	25	0	9
	85	0	6

The amount will be paid to Mrs. Piedade Mary Fernandes the registered holder and owner of the plot.

6. T. S. NO. 537/1. Mr. A. C. Mascarenhas is the registered holder and owner of this plot. The improvements contained in the plot and their value estimated by me are shown below:—

	Rs.	A.	P.
Wall of laterite stones and brick	167	6	5
4 gate pillars of laterite stones	46	14	0
2 pairs of wooden gate doors with iron bars	20	0	0
Plants	0	8	0
	234	12	5

The owner claims Rs. 500/— for the walls, gate pillars and gates and also Rs. 500/— as damages for severance being the cost of reconstruction of the boundary wall, pillars and gates. Compensation for the existing improvements and cost of rebuilding the walls cannot both be granted for obvious reasons. The claim of Rs. 500/— for walls etc. is also excessive. He does not furnish any data in support of his valuation. The land value is claimed by him at Rs. 6,500/— per acre but he furnishes no basis for his estimate of it. I have fixed the land value at Rs. 3,000/— per acre for the reasons already stated above and award the following compensation for the plot:—

	Rs.	A.	P.
Land 1089 sq. ft. at Rs. 3000 per acre	75	0	0
Improvements detailed above	234	12	5
Total	309	12	5

The compensation awarded will be paid to Mr. A. C. Mascarenhas who is the absolute owner of the plot.

7. T. S. NO. 537/2. This plot also belongs to Mr. A. C. Mascarenhas. He is the registered holder and owner of it. The improvements contained in the plot are valued as shown below:—

	Rs.	A.	P.
Wall partly of laterite stones and round bricks ...	90	0	0
Gate pillars (laterite)	12	4	0
2 wooden gate doors with iron plate lattice work ...	8	0	0
Thulasikatta	0	8	0
Crotton plants	0	8	0
	111	4	0

Mr. A. C. Mascarenhas claims Rs. 50/— as compensation for the wall etc. and Rs. 100/— towards cost of reconstruction of the wall, gate etc. In the absence of any specific data on which he bases his valuation I cannot accept his valuation. The land value at Rs. 6,500/— is excessive as stated against 537/1. With regard to this plot the owner states that the acquisition prejudicially affects the utility and comfort of the house building and claims that the whole holding with buildings be acquired under section 49 of the Land Acquisition Act. I have inspected the place. Apart from narrowing the open space in front of the house located in that plot, I do not consider that the utility and comfort of the house will be affected. As however an objection under section 49 of the Land Acquisition Act has been received I have no option but to refer the question whether the plot proposed for acquisition does or does not form part of a house or building to the Court for decision under the proviso 2 of section 49 (1) of the Land Acquisition Act. The plot will not therefore be taken possession of until after the question has been determined by the Court. But this does not preclude me from passing the award. In the result I award the following compensation for the plot:—

	Rs.	A.	P.
Land 436 sq. feet at Rs. 3000/—	30	0	5
The improvements detailed above	111	4	0
Total	141	4	5

The compensation awarded will be paid to Mr. A. C. Mascarenhas.

8. T. S. NO. 695/2. The plot stands registered in the name of Mrs. Stella Saldanha. The particulars of improvements contained in the plot and their value as fixed by me are shown below:—

			Rs.	A.	P.
Mud wall (damaged)			4	1	6
2 jack trees @ Rs. 5/- ...	10	0	0		
1 do Rs. 4/- ...	4	0	0		
1 do Rs. 3/- ...	3	0	0		
2 mango trees @ Rs. 10/- ...	20	0	0		
2 guava plants ...	1	0	0		
2 palmyra plants ...	0	4	0		
1 gooseberry plant ...	0	4	0		
2 wild plants ...	0	8	0		
	39	0	0	39	0	0
Total				43	1	6

Mrs. Stella Saldanha claims the value of the 4 jack trees at Rs. 60/— each after capitalising the average annual yield of each tree at Rs. 3/— per year. The jack trees concerned are not at all in a flourishing condition and have either lost many of their branches or worm eaten and decayed that the annual yield of all the 4 trees will not be even a rupee. Similarly the two graft mango trees for which she claims compensation at the rate of Rs. 200/— per tree on the basis of the average annual yield at Rs. 12/— are quite old and have almost passed the stage of bearing fruits that they do not deserve to be valued at more than Rs. 10/— per tree. The value of the other trees of minor importance are estimated at Rs. 11/— for which I have allowed Rs. 2/— in all. For the mud wall she claims Rs. 13—5—4 but it is not based on any specific data. The value of the land has been claimed at

Rs. 6000/— per acre but no basis for arriving at that valuation is furnished by her. She claims under section 23 (1) clause 3 and section 49 (2) of the Land Acquisition Act that the entire land i. e. T. S. Nos. 695/1, & 2 should be acquired together with the improvements standing thereon or in the alternative that full value of the land severed (T. S. No. 695/1) and of the improvements thereon should be paid to her as damages. On local inspection I find that T. S. No. 695/1 severed from the main compound is by itself sufficient for the unimpaired use of it in that it measures 6098 sq. feet or 14 cents in extent with splendid amenities. The section 23 (1) clause 3 relied upon by her for acquisition of the whole plot is not applicable in the present case as this is an acquisition under the Town Planning Act vide section 35 (1) of the Town Planning Act. It is found on inspection that the acquisition of a part of T. S. 695 cuts off a corner of her compound from the main holding. This is no doubt true but in order to compensate for this cutting off I award a lump sum damage of Rs. 100/— on account of severance under section 35 (2) (c) of the Town Planning Act. I consider that it is adequate to meet the damages if any, resulting therefrom. In the result I award the following compensation for the plot T. S. No. 695/2.

	Rs.	A.	P.
Land 4356 sq. ft. at Rs. 3000/— per acre	300	0	0
Improvements detailed above	43	1	6
Damages due to severance of T. S. No. 695/1 from the other land belonging to the claimant	100	0	0
Total	443	1	6

She has filed a written statement that her son Patrick Saldanha is a co-owner of the plot and that the Dr. of Fr. Muller's Charitable Institutions is the mortgagee and that the mortgage amount is outstanding. As no specific apportionment of compensation among the persons interested can be made by me without their consent the compensation of Rs. 443—1—6 will be deposited in the Sub Court, South Kanara under section 31 (2) of the Land Acquisition Act.

9. T. S. NO. 697/A1A. Diwan Bahadur S. L. Mathias is the registered holder and owner of this plot. The improvements existing on the plot and their value estimated by me are shown below:—

				Rs.	A.	P.
Mud wall				35	7	0
2 laterite gate pillars				27	3	7
1 pair of iron gate doors				30	0	0
1 wooden wicket gate				5	0	0
2 granite slabs at the wicket gate				2	0	0
TREES.						
1 Jack tree ...	4	0	0			
do ...	3	0	0			
do ...	1	8	0			
do ...	1	0	0			
1 cashew nut plant ...	0	3	0			
1 cocoanut tree ...	8	0	0			
Wild plants	0	2	0			
	17	13	0	17	13	0
Total				117	7	7

Diwan Bahadur S. L. Mathias claims Rs. 30/— for the 4 jack trees, Rs. 15/— for the cocoanut tree, Rs. 200/— for the gate pillars and the iron gate, Rs. 15/— for the turning gate (wicket gate), Rs. 6/— for the two granite slabs and Rs. 202/— for the mud wall. But none of these valuations is based on any specific data. His valuation is unreasonable and excessive. The jack trees are of stunted growth and their yield is poor. The cocoanut tree is not in a flourishing condition for which Rs. 8/— fixed by me is rather liberal. The value of the gate pillars was fixed after calculating the cubical contents and estimating their value at the rates of the L. F. schedule of Rs. 25/— per 100 cubic feet which is the rate for new masonry work of the kind. The iron gate is too old and damaged that Rs. 30/— fixed for it

by me is too liberal a valuation. The value of the mud wall at Rs. 202/— is evidently claimed by him at the rate of Rupee one per running foot. The entire length of the wall is actually 225′ x 6′ x ¾′ 1012½ cubic feet which works out to Rs. 35—7—0 at Rs. 3—8—0 per 100 cubic feet—the rate for new mud walls in a place like Kaprigudde where mud is easily available. He claims land value at Rs. 5000/— per acre for which also he has not furnished any data. The value fixed by me at Rs. 2,500/— for the reasons stated above does not require any enhancement. In the result I award the following compensation for the plot.

	Rs.	A.	P.
Land 2178 sq. ft. at Rs. 2,500/- per acre	125	0	0
Value of the improvements as detailed above	117	7	7
Total	242	7	7

Mr. A. L. P. Mathias, S/o Dewan Bahadur S. L. Mathias is learnt to be the General Power of Attorney Holder of the properties belonging to Mr. S. L. Mathias. Notice under Section 9(1) 3 and 10 of the Land Acquisition Act were served on both the father and the son but the son has not responded to it. Dewan Bahadur S. L. Mathias in his written statement dated 8—5—40 says that he is the sole owner of the plots. The amount of compensation awarded for the plot will be paid to the legal heirs of Dewan Bahadur S. L. Mathias (since deceased). The amount will be deposited in the Sub Court, South Kanara under Section 31(2) of the Land Acquisition Act.

10. T. S. NO. 697/A1B. This plot also belongs to Dewan Bahadur S. L. Mathias. The plot does not contain any improvements. I award land value in respect of this plot which measures 82 sq. ft. at Rs. 2,500 per acre for the reasons stated against T. S. No. 697/A1A. The compensation awarded works out to Rs. 4—11—4 which will be paid to the legal heirs of Dewan Bahadur S. L. Mathias through Court as stated against T. S. No. 697/A1A.

11. T. S. No. 697/A2A. L. E. B. Vas is the registered holder and owner of the plot. The improvements existing in the plot are shown below:—

				Rs.	A.	P.
Mud walls				37	1	9
TREES						
1 Jack tree		4	0	0		
3 do at Rs. 3/-		9	0	0		
1 graft mango tree		5	0	0		
2 cocoanut trees at Rs. 5/-		10	0	0		
Pepper vines		1	0	0		
Flower plants etc.		1	2	0		
		30	2	0		
				30	2	0
				67	3	9

The owner claims compensation of Rs. 40/- for the 4 jack trees, Rs. 10/- for the graft mango tree, Rs. 20/- for the 2 cocoanut trees and Rs. 14/- for other plants which do not actually exist in the plot to be acquired. He also claims Rs. 55/- for some of the trees said to be right on the boundary line. The trees to be actually acquired are those which have been fixed at the value of Rs. 30—2—0. The compensation claimed for the trees is excessive and without any basis. The trees concerned are about 15 years old and must have been merely plants in 1928 so that the valuation made by me is rather liberal. He claims Rs. 100/- for the existing mud wall and Rs. 100/- for putting up a new wall and towards damages resulting from severance. The valuation of Rs. 37—1—9 for the compound wall is fixed on the basis of valuation for new mud walls duly adopting the L. F. Schedule rates. I cannot accept the valuation put in by the claimant. Similarly the land value is claimed by him at Rs. 8000/- per acre in support of which he has failed to furnish any specific data. I have fixed the land value for this plot at Rs. 2,500/- per acre which seems to me quite adequate. The claimant objects for the acquisition of the plot on the ground that the house building existing in the unacquired portion will be prejudicially

affected as regards privacy, comforts and sanitation of the house building and requests that the entire holding should be acquired under section 49 of the Land Acquisition Act. I notice on inspection that the proposed acquisition is along the western part of the compound to a width of 6 feet in breadth. The house stands in the middle of the plot at a distance of 20 feet from the western boundary compound wall so that a distance of 14 feet would still be left after the acquisition. This is admitted by the claimant in para 2 of his claim statement dated 8—5—40. I do not therefore consider that the comforts, privacy and sanitation will in any way be affected. He seeks to invoke the provisions of section 49 of the Land Acquisition Act on the ground that the plot proposed to be acquired forms part of his house or building. I have no option but to refer the matter to a Civil Court. The plot will not, therefore be taken possession of until after the question has been determined by the Court. On this ground alone I cannot postpone the question of passing the award. I award the following compensation in respect of this plot: -

	Rs.	A.	P.
Land 1960 sq. ft. at Rs. 2,500/- per acre	112	7	10
Mud walls	37	1	9
Trees	30	2	0
Total	179	11	7

The amount will be paid to Mr. L. E. B. Vas, the owner of the plot.

12. T. S. NO. 697/A1C. The plot stands registered in the name of Diwan Bahadur S. L. Mathias. The plot contains a mud wall 65' x 5½' x 8" or 231½ cubic feet which works out to Rs. 6—14—11 at Rs. 3 per 100 cubic feet. He claims Rs. 68/- at Rupee one per running foot. The wall is too old and his claim is excessive. An ambate (wild mango) tree existing in the plot is fixed at 2 annas as value for which he claims 0—8—0. There are no other improvements.

The claimant claims Rs. 5,000/- as land value per acre but for the reasons stated in section II of these proceedings I have fixed it at Rs. 2,500/- and I cannot accept his valuation based on no statistical data. In the result, I award the following compensation for the plot:—

	Rs.	A.	P.
Land 371 sq. ft. at Rs. 2,500	21	4	8
Mud wall	6	14	11
1 Ambate tree	0	2	0
	28	5	7

The amount awarded will be paid to the legal heirs of Diwan Bahadur S. L. Mathias through the Court for the reasons stated against T. S. No. 697/A1A.

13. T. S. NO. 697/A1D. This plot also belongs to Diwan Bahadur S. L. Mathias. There are no improvements in the plot. I award the following compensation for the land at Rs. 2,500/- per acre which is already fixed by me. This works out to Rs. 28—12—1. The amount will be paid to the legal heirs of Diwan Bahadur S. L. Mathias through the Court as stated against T. S. No. 697/A1A.

14. T. S. No. 697/F. Mr. L. F. Vas is the Registered holder and owner of the plot. There are no improvements in it and it is now used as a lane by the public. I award the following compensation for the plot at Rs. 2500/- per acre for the reasons stated in section II of these proceedings.

Land 4356 sq. feet at Rs. 2,500/- per acre ... ... Rs. 250/-

The amount will be paid to L. F. Vas who is the registered holder and owner of the plot. He has not responded to the notice issued to him under sections 9 (1) & (3). & 10 of the Land Acquisition Act.

T. S. No. 698/2. The plot stands registered in the name of W. F. H. Vas who is also the absolute owner of it. The plot contains the following improvements:—

	Rs.	A.	P.
Mud wall	1	0	4
do with tiles	2	6	5
1 bamboo cluster	3	0	0
	6	6	9

I have fixed the value of the land at Rs. 2,500 - per acre. Hence I award the following compensation in respect of the plot.

	Rs.	A.	P.
Land 436 sq. ft. at Rs. 2500 - per acre	25	0	4
Improvements detailed above	6	6	9
Total	31	7	1

The notice under sections 9 (1) (3) & 10 of the Land Acquisition Act was personally served on him on 18—4—40 but he has not responded to it. The amount of compensation awarded for this plot will be paid to W. F. H. Vas the registered holder and owner of the plot.

16. T. S. NO. 674/2. Mrs. Dejamma is the registered holder and Mulgar of the plot and one Ratnamala Shedthi is the mulgeni tenant who is actually in enjoyment of it. The acquisition cuts in the middle of a tiled outhouse with mud walls in the plot. The shed is very flimsy and an extent of 69 sq. ft. in plinth area falls in the plot under acquisition. The whole shed is 166¾ sq. ft. plinth area. The value of the portion of the shed under acquisition at the rate of 1 anna per sq. ft. works out to Rs. 4—5—0 and a lump damage of Rs. 6 - for severance is adequate and it is allowed. The trees existing in the plot are:—

2 drumstick trees ...	2	0	0
1 Jack tree	1	0	0
3 baini trees	3	0	0
1 sandalwood plant ...	0	8	0
Wild plants etc. ...	1	2	0
	7	10	0

Neither the mulgar nor the mulgenidar claim any specific amount towards the value of the improvements. The mulgar, however, claims land value at Rs. 6000/- per acre. She has not furnished any data in support of her valuation. I have fixed Rs. 2000/- as land value for the reasons stated above in section II of these proceedings. In the result I award the following compensation for the plot.

	Rs.	A.	P.
Land 6752 sq. ft. at Rs. 2000/- per acre	310	0	2
Tiled shed (portion under acquisition)	4	5	0
Damages due to its severance	6	0	0
Tree growth	7	10	0
Total	327	15	2

The Mulgar and the mulgenidar have not filed any statement regarding the apportionment of the compensation which I award to both. Under section 31(2) of the Land Acquisition Act the amount will be deposited in the Sub Court, South Kanara.

17. T. S. NO. 675/1. The plot is held by Dewan Bahadur S. L. Mathias who is the registered holder and mulgar of the plot, one L. Z. Machado being the mulgeni tenant in possession of the plot under acquisition. The plot contains traces of old mud wall highly damaged for which I fix Rupee one as its value. The wild plants and banana plants are valued at 12 annas so that the value of the entire improvements is Rs. 1—12—0. I have fixed land value of this plot at Rs. 2000—0—0 per acre. The compensation awarded by me for this plot is as follows:—

	Rs	A.	P.
Land 92 sq. ft. at Rs. 2000/- per acre	4	3	7
Improvements	1	12	0
	5	15	7

The mulgar claims Rs. 7—13—0 as his share while the mulgenidar claims the entire compensation. The compensation of Rs. 5—15—7 awarded by me for this plot in favour of both the mulgar and the mulgenidar will be deposited in the Sub Court under section 31 (2) of the Land Acquisition Act.

18. T. S. NO. 673/2. Mrs. Dejamma is the Registered holder and mulgar of this plot and Ratnamala Shedthi is the mulgeni tenant. The plot contains only a

mango tree valued at Rs. 4/- but the mulgeni tenant has given a statement that she is getting it removed at her own cost and that she does not claim any compensation for it. The mulgar claims land value for the plot at Rs. 8000/- per acre but she has not furnished any basis in support of her valuation. I have already fixed the value of the land at Rs. 2000/- per acre and I have furnished reasons for it. I award the following compensation for the plot:—

Land 1193 sq. ft. at Rs. 2000/— per acre Rs. 55—0—1. The amount will be paid to both the mulgar and the mulgeni tenant. As they have not come to any agreement as regards its apportionment, the amount will be deposited in the Sub Court, South Kanara under section 31(2) of the Land Acquisition Act.

19. T. S. No. 655/2. Mrs. Dejamma is the registered holder and sole owner of the plot. The plot is mostly wet field on which seedlings for the next cultivation have been raised. The particulars of the improvements contained in the plot and their value estimated by me are furnished below:—

TREES.	Rs.	A.	P.
1 cocoanut tree (bearing)	12	0	0
do (not bearing)	3	0	0
do (bearing but not in a flourishing condition)	10	0	0
1 Mango plant	0	4	0
	25	4	0

The value of the seedlings intended for the next cultivation which can be transplanted only after a month is estimated at Rs. 5/—. The owner claims Rs. 10,000/- per acre as the value for land, but she has not got any data in support of her valuation. I have already fixed land value of this plot at Rs. 2,000/— per acre. The plot is not fit for a building site and I do not think there are sufficient grounds to enhance the Land value. She also requests that the plot may be acquired after the seedlings are transplanted. But in view of the fact that the acquisition has to be completed in this case by 17—5—40 I award Rs. 5 — towards the value of the seedlings. In the result I award the following compensation for the plot.

	Rs.	A.	P.
Land 5990 sq. ft. at Rs. 2000 per acre	275	0	4
Trees	25	4	0
Cost of seedlings	5	0	0
	305	4	4

The amount will be paid to Mrs. Dejamma who is the registered holder and owner of the plot.

20. T. S. NO. 656/C2.—D. J. Britto, is the registered holder and owner of the plot. The improvements contained in the plot are given below:—

	Rs.	A.	P.
1. Cocoanut tree (bearing)	6	0	0
do (not bearing)	2	0	0
Wild plants	0	4	0
Banana plants	0	2	0
	8	6	0

The owner claims value of the land at 10,000/— per acre. He has not furnished any basis in support of his valuation except that he refers to the high assessment viz. Rs. 14/— per acre, fertility of the land which is Ist class wet field on the ground and suitability of the plot for raising yenel crop seedlings. The plot actually contains seedlings for the next paddy cultivation, the value of which is estimated at Rs. 5/—. The owner states that no suitable bed for raising seedlings is available in his entire property except the plot under acquisition and that he would be put to perpetual loss by the acquisition of this plot. The loss alleged is rather imaginary than real. I do not propose to pay any damages as a sufficient extent suitable for raising paddy seedlings is available immediately to the west of the plot to be acquired in the same field. He also claims the land value of T. S. No. 656/C3 the ridge portion severed after the acquisition as damages under section 23 (1) clause 3rdly. No doubt T. S. No. 656/C3 measuring about 1½ cents is severed from his other land as may be seen in the sketch but on ground it forms a ridge full of tree growth

and not fit for raising any crop. I, however, award a lump sum of Rs. 10/— as damages for its severance from the rest of his land. He invokes provisions of section 23 (1) and section 49 (2) of the Land Acquisition Act for acquisition of the whole plot. But neither the provisions of section 23 of the Land Acquisition Act nor the provisions of section 49 (2) of the Land Acquisition Act which are based on section 23 are applicable to this case under the mandatory bar provided in section 35 (i) of the Town Planning Act. Section 49 (1) of the Land Acquisition Act is not also applicable as there is no question of a land forming part of a house or building. In the result I award the following compensation for the plot.

	Rs.	A.	P.
Land, 5227 sq. ft. at Rs. 2000/- per acre	239	15	10
Trees (as detailed above)	8	6	0
Cost of the seedlings (existing)	5	0	0
Damages due to severance of the ridge portion 656/C3 ...	10	0	0
Total	263	5	10

The amount will be paid to D. J. Britto, the registered holder and owner of the plot.

21. T. S. No. 662/2. Mr. D. J. Britto is the registered holder and owner of the plot. The plot contains the following plants for which I have fixed a value of Rs. 5/—

1 cocoanut plant	Rs.	2	0
Plantain plants	,,	3	0
		5	0

The owner claims land value at the rate of Rs. 5000 - per acre. He has not furnished any data in support of his claim. I have already fixed land value at Rs. 2000/— in respect of this plot. The value of the improvements claimed is Rs. 15/- but the improvements viz. a cocoanut plant and a number of banana plants concerned are recent and they must have been only tender plants in 1928. The value of Rs. 5/- proposed to be awarded for the improvements is rather liberal. The owner claims damages for severance of T. S. No. 662/3 at Rs. 5000/— per acre. But I do not find that the acquisition of T. S. No. 662/2 would affect T. S. No. 662/3. He claims that the plot 662/3 may also be acquired under section 49 (2) and 23 (1) clause 3rdly of the Land Acquisition Act. The latter section of the Land Acquisition Act relied upon by him is not applicable to the present acquisition. This is also not a fit case for awarding damages due to severance of T. S. No. 662/3 which is already a narrow strip of land. In the result I award the following compensation for the plot T. S. No. 662/2.

	Rs.	A.	P.
Land 1306 sq. ft. at Rs. 2000/- per acre	59	15	5
Trees	5	0	0
Seedlings	5	0	0
	69	15	5

The amount will be paid to D. J. Britto. The reservation of a right of way from the eastern portions of the claimant's lands to the western portions of his lands desired by the petitioner is outside the scope of the Land Acquisition Act. Both the plots abut on the road proposed to be opened and the party has no grievance whatever.

22. T. S. NO. 660/1. D. J. Britto is the registered holder and mulgar of the plot and Loki alias Laxmi, Vasudeva and Narsappa are persons possessing mulgeni interest over the plot. The improvements contained in the plot are detailed below:—

	Rs.	A.	P.
Mud wall 3' x 3' x 2'/3—6 cubic feet at Rs. 3/- per 100 c. ft.	0	2	11
Wild plants	0	8	0
Total	0	10	11

Neither the mulgar nor any of the mulgenidars claims any specific compensation in respect of the plot. The Mulgar, however, claims land value at Rs. 5000/- per acre for the portion of T. S. No. 660/1 occupied by a mamool lane alleged to be not included in the mulgeni holding. The mulgenidars do not make any

mention of it and the mulgar has not produced the mulgeni lease deed. The land value claimed for the lane at Rs. 5000/- per acre by the mulgar is not borne out by any documentary evidence. I have fixed land value at Rs. 2000/- in respect of the plot T. S. No. 660/1 for the reasons stated in section II of these proceedings. In the result I award the following compensation for the plot T. S. No. 660/1.

	Rs.	A.	P.
Land 1198 sq. ft. at Rs. 2000 - per acre	55	0	1
Improvements	0	10	11
Total	55	11	0

The amount will be paid to the mulgar and the mulgenidars. But as the parties interested have not filed joint statements regarding their respective shares as agreed to between them the amount awarded will be deposited in the Sub Court, South Kanara under section 31(2) of the Land Acquisition Act.

23. T. S. NO. 611/C1A—Mr. D. J. Britto is the mulgar and Mrs. Florina Monteiro is the mulgenidar of this plot. The particulars of improvements existing in the plot which are under acquisition are detailed below: -

			Rs.	A.	P.
Mud walls—top plastered with cement			14	8	10
1 bamboo cluster	1 0 0				
1 cashew tree	0 4 0				
	1 4 0	...	1	4	0
			15	12	10

The mulgeni tenant claims Rs. 114—8-- 0 towards the value of the compound wall, Rs. 101 - towards cost of the trees. She has not furnished any data in support of her valuation and claims value of some mango and cashew trees which do not actually fall within the plot to be acquired. She claims land value at Rs. 5000/- per acre but has not furnished any basis for it. I have fixed the land value at Rs. 2500/- per acre for the reasons stated in section II of these proceedings. The mulgar claims land value at Rs. 5000/- in respect of the portion occupied by a mamool lane. The mulgenidar does not agree to it. By reason that her residential house will have to be provided with revetment for lateral support after acquisition she claims Rs. 150/- as cost thereof. I do not find that there is any need for giving additional compensation for this as there would still be about 6 feet of the land between the house and the acquired road. I do not therefore propose to award any compensation for it. In the result I award the following compensation for the plot:—

	Rs.	A.	P.
Land 2178 sq. ft. at Rs. 2500/-	125	0	0
Improvement (detailed above)	15	12	10
	140	12	10

As the mulgar and mulgenidar have not come to an agreement regarding the apportionment of compensation under section 31 (2) of the Land Acquisition Act the amount awarded in respect of this plot will be deposited in the Sub Court, South Kanara.

24(a) T. S. NO. 659/2.—Mr. D. J. Britto is the mulgar and registered holder of the plot and Juam Fernandes and Mrs. Kalyani Suvarna are the mulgeni tenants in occupation and enjoyment of it. The mulgeni right of the latter has been mortgaged to Mrs. Leelavathi *alias* Saraswathi so that the persons interested in the plot are (1) D. J. Britto (2) Mrs. Kalyani Suvarna (3) Mrs. Leelavathi alias Saraswati and (4) Juam Fernandes. The improvements contained in the plot and belonging to Mrs. Kalyani are detailed below:-

	Rs.	A.	P.
Mud wall	13	11	7
1 pair of wooden doors (flimsy)	0	8	0

			Rs.	A.	P.
TREES					
3 cocoanut plants at Rs. 2-	6	0 0			
1 areca plant	0	8 0			
Other plants	1	8 0			
	8	0 0			
			8	0	0
Portion of residential house building			45	0	0
			67	3	7

(b) The mulgeni tenant who is the sole owner of the house as well as other improvements desires that the alignment of the road be diverted so that the house is not affected by the acquisition. In the alternative she desires that she may be paid Rs. 1,500/- towards cost of the house alone. I find that the alignment of the road cannot be diverted as by doing so a more substantial house existing on the opposite compound to the east will be affected and has to be heavily compensated for. The house in the plot is no doubt affected. The Municipal Commissioner says that the house was constructed in 1935 and that no permission was granted by the Municipality under section 17 of the Town Planning Act. As it is an improvement effected after the publication of the notification under section 12 of the Town Planning Act on 21—2—1928, the party is not eligible for any compensation under section 35 (3) (f) of the town Planning Act. She also claims Rs. 50/- for the mud wall Rs. 125/- for reconstruction of the compound wall, Rs. 23/- for the tree growth. But she has not furnished any data in support of her valuation. In the result I award the following compensation for the plot.

				Rs.	A.	P.
Land 1525 sq. ft. at Rs. 2,500 per acre				87	8	4
Improvements (detailed above)				22	3	7
			Total	109	11	11

(c) The reasons for fixing land value at Rs. 2,500/- have already been given by me in section II of the proceedings. The mulgar D. J. Britto claims value of the land included in the plot under acquisition and actually occupied by a mamool lane. The mulgeni tenant, Kalyani Suvarna claims the entire compensation. Mrs. Leelavathi alias Saraswathi claims the compensation amount in reduction of the mortgage amount of Rs. 800/- due to her from Kalyani Suvarna, for which the latter has however no objection. Juam Fernandes has not responded to the notice served personally on him on 17—4—40. But as the persons interested have not come to an agreement regarding the apportionment of compensation the entire compensation awarded in respect of the plot will be deposited under section 31 (2) of the Land Acquisition Act in the Sub Court, South Kanara.

IV. TAKING OF POSSESSION. The lands and other improvements acquired except in the cases covered by T. S. 537/2 and T. S. 697/A2A will immediately be taken possession of and handed over to the Mangalore Municipality. They will be vested in the said Municipality.

V. The Mangalore Municipality has provided the necessary funds.

11—5—1940.

(*Sd.*) C. Balagurunatham,
Revenue Divisional Officer & Land Acquisition Officer, Mangalo.

(True Copy)

Revenue Divisional Officer & Land Acquisition Officer.

3/17

Saraswathi Printing Works, Ltd., Mangalore.

Ref. C. No. 1567-M-40.
L. A. C. 3/40.

Proceedings of the Revenue Divisional Officer and Land Acquisition Officer, Mangalore, dated 11th May 1940.

Sri C. Balagurunatham Pillai, B. A.

LAND ACQUISITION Mangalore Taluk and Town—Attavar village—Falneer Town Planning Scheme—Opening a road connecting Sturrock Road and Falnir IIIrd Cross Road—Acquisition under the Falnir Town Planning Scheme on behalf of the Mangalore Municipality—Award passed.

Ref. 16257-D2-39 dated 6—3—40 from the Commissioner, Mangalore Municipality.

I. GENERAL. This is a case in which the acquisition is to be done under the Land Acquisition Act as modified by Chapter VII of the Madras Town Planning Act 1920 as amended. According to section 34 of the Town Planning Act a notification of the Town Planning Scheme in question by the Local Government under section 14 shall operate in respect of any land required for the purposes of the scheme as a declaration under section 6 of the Land Acquisition Act and no further declaration shall be necessary. In this case, therefore, there has been no declaration under section 6 of the Land Acquisition Act.

2. The Town Planning Scheme in question is called the "Falnir Town Planning Scheme". In G. O. No. 352 Ms. P. H. dated 14—2—1928 the Local Government directed the Mangalore Municipality to make a Town Planning scheme in respect of the area known as Falneer situated within the Municipality of Mangalore. The notification under section 12 was published on 21—2—1928 as required by section 12 of the Town Planning Act. The sanction of the Local Government for the scheme under section 14(3) of the Town Planning Act was accorded in G. O. No. 1631 P. H. dated 3—5—1937 and the notification approving the scheme was published at pages 281—284 of the Fort St. George Gazette Part I-A dated 18—5—37 as required by subsection 5 of section 14 of the Town Planning Act. Under section 34 of the Town Planning Act the acquisition has to be completed within 3 years of the publication of the notification under section 14 i. e. by 17—5—1940.

3. According to rule 7 of the scheme rules approved by the Government in the said G. O. the notification under section 14 of the Town Planning Act is to operate as a declaration under section 6 of the Act in respect of all or any of the lands mentioned in schedule I of the G. O. in so far as they are required for the public purposes noted in schedule VI. The lands to be acquired in these proceedings are included in G. O. No. 1631 P. H. dated 3—5—37 and the Revenue Divisiona Officer, Mangalore has been appointed as the Land Acquisition Officer in G. O. Ms No. 1088 P. H. dated 18—3—40 and has been directed to take order for the acquisition of these lands.

II. BASIS FOR VALUATION—Under sub-section 2 (a) of section 35 of the *Town Planning Act the market value of the land to be awarded is the value on the date of the notification* under section 12 of the Act which in this case is 21—2—1928. It is not the present value that I have to award but the value as it was 12 years ago and even improvements effected after the date of the notification have to be excluded under section 35 (3) (f) of the Town Planning Act for valuation purposes unless they are covered by a permission under section 17 of the Town Planning Act. Another variation and special feature in these proceedings as compared with the ordinary proceedings under the Land Acquisition Act is that 15% solatium for compulsory acquisition as required by section 23 (2) of the Land Acquisition Act is not to be awarded—Vide section 35 (1) of the Town Planning Act.

2. The lands to be acquired in this case are in Falnir beginning from the Sturrock Road and terminating at the Coelho Lane and the Road is intended to connect Sturrock Road and Falnir IIIrd Cross Road (Sultan's Road) and it is for opening this road that the lands are to be acquired. In about 5 cases out of 12 cases in this acquisition it is proposed to acquire lands which are already being used

as lanes passing through private lands. The plots under acquisition do not contain any residential houses or substantial buildings rented out to anybody. I do not therefore think it necessary to value the property on rental basis. The land and the improvements will be valued separately.

3. The lands under acquisition in this case may be grouped into three groups according to their situation viz. (1) Lands abutting the main road (i. e. Sturrock Road) (2) Lands not abutting it but having easy access to it and (3) Lands in the interior through which new lanes are now proposed to be opened.

4. As regards fixation of value of land included under group I, I find that in L. A. C. 5/36 of the Revenue Divisional Officer, Mangalore T. S. Nos. 10/A2, 2/1 & 3/1 abutting the Sturrock Road were acquired at the rate of Rs. 4000/- per acre. These plots lie almost at the junction of the Sturrock Road and the other equally important road the Falnir Road. The lands abutting the Sturrock Road now under acquisition are at a distance of about 1 furlong from the lands acquired in 1936. The value of lands in 1936 was less than that in 1928. In view of this fact and also that the plots under acquisition are not equally valuable as the plots acquired in L. A. C. 5/36, I find that Rs. 3,500/- (proposed by the Municipality) would be a fair and reasonable value for lands abutting the Sturrock Road viz. T. S. Nos. 705/1 & 718/2.

Again the plot T. S. No. 690—A, a portion of which is now proposed for acquisition was the subject matter of a sale deed executed in 1928. 96 cents in T. S. No. 690—A with two house buildings, outhouses and wells, trees etc. were sold for Rs. 5000/- in 1928. The value of the buildings, trees and other improvements then existing is understood to have costed Rs. 2,500/- so that the value of bare land of 96 cents was about Rs. 2,500/- in 1928. Hence the rate of Rs. 2,500/- per acre for the portion of T. S. No. 690—A now under acquisition will be adopted. T. S. Nos. 697/A1F, 690/C1B and 690/A+C4B are similar lands for which I shall fix value of land at Rs. 2,500/- per acre. These are lands grouped under group III referred to above. The plots lying between the lands under group I and group III are T. S. Nos. 722/1, 721, 720/1, 719/2, 710/2, 708/1A and 708/2A for which I find that Rs. 3,000/- per acre would be a suitable value as they have easy access to the Sturrock Road which is a bigger and more crowded one.

III. TRUE AREA OF THE LAND. The plots under acquisition in this case and their actual areas as computed by the Inspecting Tahsildar are shown below:—

T. S. No.	Extent in sq. Ft.
705/1	1742
722/1	2390
718/2	2614
721	535
720/1	2380
719/2	2527
710/2	6831
708/1A	18
708/2A	770
697/A1F	14375
690/C1B	3060
690 A+C4B	9180

None of the persons interested in the land dispute the correctness of the above area and I accept the actual area shown above as the true area of the lands under acquisition.

IV. COMPENSATION AND TO WHOM PAYABLE.

1. T. S. NO. 705/1—Mrs. L. E. Mathias Bai is the registered holder and owner of the plot. The particulars of improvements contained in the plot and their value as fixed by me are shown below:—

				Rs.	A.	P.
Honeycomb brick wall	...	...	...	15	12	0
Brick wall	...	...	...	20	3	5
Two brick gate pillars	...	...	...	48	2	0
Two iron gate doors	...	...	...	35	0	0
Laterite masonry seat (a portion about 1 ft. long on an average to be acquired)			...	1	13	8
Damages due to severance of do			...	2	0	0
Mud wall	...	...	...	15	0	0
TREES						
1 Nerale tree	...	2—0—0				
2 Ambate trees	...	1—0—0				
1 graft mango tree	...	20—0—0				
1 cocoanut tree	...	8—0—0				
				31	0	0
				168	15	1

The owner has not responded to the notice under sections 9 (1) (3) and 10 of the Land Acquisition Act duly served. I have already fixed land value for this plot at Rs. 3,500/— per acre for the reasons stated in section XII of these proceedings. I accordingly award the following compensation in respect of this plot:—

	Rs.	A.	P.
Land 1742 sq. ft. at Rs. 3500/— per acre	139	15	6
Value of improvements detailed above	166	15	1
Damages due to severance of laterite masonry seat ...	2	0	0
	308	14	7

This amount will be paid to Mrs. L. E. Mathias Bai, the owner of the plot.

2. T. S. No. 722/1.—Ignatius Britto is the registered holder and owner of the plot. The particulars of the improvements contained in the plot are shown below:—

	Rs.	A.	P.
1 gate pillar of laterite masonry work	16	13	4
1 iron gate door	10	0	0
	26	13	4

Ignatius Britto has not responded to the notice issued to him by registered post on 16—4—40. The land value fixed by me for the plot is Rs. 3000/— per acre and I award the following compensation in respect of this plot.

	Rs.	A.	P.
Land 2390 sq. ft. at Rs. 3000/— per acre	164	9	7
Value of the improvements	26	13	4
	191	6	11

The compensation awarded will be paid to him.

3. T. S. No. 718/2. The plot stands registered in the name of Mr. T. G. Lobo. Messrs. Percy Lobo and Michael Alvares and Mrs. M. M. Lobo are understood to be persons interested in the plot. The value of the improvements contained in the plot are given below:

				Rs.	A.	P.
Portion of a laterite gate pillar				1	10	11
1 iron gate door				10	0	0
Mud wall with tiles				90	0	0
1 cowshed (portion)				21	14	0
An outhouse used as store room (portion)				60	0	0
TREES						
1 cocoanut tree	5	0	0			
1 gooseberry tree	2	0	0			
1 palmyra tree	3	0	0			
2 cocoanut plants	0	8	0			
	10	8	0			
				10	8	0
				194	0	11

In view of the fact that the cowshed and the outhouse are severed to the acquisition I fix damages of Rs. 3 - in respect of the cowshed and Rs. 20/- in respect of the outhouse for their severance. I have fixed land value of Rs. 3500/- per acre for the plot for the reasons given in section II of these proceedings.

Messrs. T. G. Lobo, Percy Lobo and Michael Alvares have not responded to the notice under sections 9 (1) (3) and 10 of the Land Acquisition Act duly served on them. Mrs. M. M. Lobo has filed a written statement dated 8—5—40 that she is the absolute owner of the plot. Mr. Michael Alvares, had, however, given a statement dated 26—3—40 to the effect that Messrs. T. G. Lobo, Percy Lobo and himself are the persons entitled to claim compensation in respect of this plot. She has also in her written statement dated 8—5—40 claimed value of the Land at Rs. 7000/- per acre, a compensation of Rs. 2000/- for having constructed the road in portions of the plot under acquisition, a cost of Rs. 100/- for the compound wall and Rs. 600/- being cost of constructing a new boundary wall. The claim is an arbitrary one and no data is furnished by her for any of her valuations claimed. I cannot accept any of her valuations.

In the result I award the following compensation for the plot:—

	Rs.	A.	P.
Land 2614 sq. ft. at Rs. 3500/- per acre	210	0	6
Improvements	194	0	11
Damages due to severance	23	0	0
	427	1	5

As the parties concerned have not come to an agreement and filed a joint statement as regards the apportionment of compensation the compensation awarded by me will be deposited under section 31 (2) of the Land Acquisition Act in the Sub Court, South Kanara.

4. T. S. NO. 721. Mrs. L. E. Mathias Bai is the registered holder and owner of the plot. The plot contains the following improvements:—

	Rs.	A.	P.
Mud wall in tiles	9	8	0
Laterite culvert	2	4	0
1 hangarka tree	0	8	0
	12	4	0

I have already fixed value of the land at Rs. 3000/- per acre. The owner has not filed any claim statement as stated against T. S. No. 705/1. In the result, I award the following compensation for the plot:—

	Rs.	A.	P.
Land 535 sq. ft. at Rs. 3000/- per acre	36	13	6
Improvements (detailed above)	12	4	0
	49	1	6

The compensation awarded will be paid to Mrs. L. E. Mathias Bai.

5. T. S. NO. 720/1—Ignatius Britto is the registered holder of the plot. The plot contains the following improvements:—

	Rs.	A.	P.
Dry granite in revetment	114	2	11
Laterite in lime mortar	169	5	0
Brick in lime mortar	57	13	10
Clay pipes	20	8	0
Mud wall in tiles	78	2	2
	439	15	11

All the improvements appear to me to have been effected within the last two years. It must be noted, however, that under section 35 (3) (f) of the Town Planning Act that the improvements effected after the date of publication of the notification under section 12 of the Town Planning Act which in this particular scheme is 21—2—1928 have to be excluded for valuation purposes unless they are

covered by a permission granted by the Municipality under section 17 of the Town Planning Act. The Commissioner, Mangalore Municipality states that no permission was granted for effecting these improvements. Hence I cannot award any compensation for the above improvements. The only compensation I allow as regards this plot is in respect of bare land for which I have already fixed Rs. 3000/— per acre as a suitable market value of the land. I therefore award the following compensation for the plot.

	Rs.	A.	P.
Land 2380 sq. ft. at Rs. 3000/— per acre	163	14	7

The owner Mr. Ignatius Britto has, however, not responded to the notice issued to him by registered post. The compensation awarded will be paid to him.

6. T. S. NO. 719/2.—This plot stands registered in the name of Mr. T. G. Lobo. He has not responded to the notice under sections 9 (1) (3) and 10 of the Land Acquisition Act duly served on him. Messrs. Percy Lobo, Michael Alvares and Mrs. M. M. Lobo seem to have interest in this plot as per statement of Michael Alvares. Mrs. M. M. Lobo alone has filed a claim statement referred to under T. S. No. 718/2 but she does not make any distinct claims as regards the two plots T. S. Nos. 719/2 & 718/2. The amounts claimed by her are only arbitrary and her valuation does not deserve any weight. The improvements contained in the plot are the following:—

				Rs.	A.	P.
Mud wall with tiles				50	0	0
TREES						
1 Athi tree	0	12	0			
1 tamarind plant	0	8	0			
1 Nerale plant	0	4	0			
1 Ambate plant	0	6	0			
1 téakwood plant	0	4	0			
1 mango plant	0	4	0			
1 gooseberry tree	1	8	0			
Banana chumps	1	8	0			
1 jack plant	0	12	0			
1 rain tree plant	0	2	0			
Wild plants	1	0	0			
	8	4	0	8	4	0
				58	4	0

In the result, I award the following compensation for the plot.

	Rs.	A.	P.
Land 2527 sq. ft. at Rs. 3000/—	174	0	7
Improvements	58	4	0
	232	4	7

As the parties have not filed a joint statement as regards the apportionment of compensation the amount will be deposited in the Sub Court, South Kanara under section 31 (2) of the Land Acquisition Act.

7. T. S. NO. 710/2. This plot stands registered in the name of Mr. T. G. Lobo and the claimants are those named under T. S. Nos. 718/2 and 719/2. The particulars and value of the improvements contained in the plot are given below:—

				Rs.	A.	P.
Mud wall with tiles				9	0	0
Mud wall				22	10	3
1 wooden gate door with metal sheet				3	0	0
TREES—						
1 teak tree	1	8	0			
1 mango tree ...	2	0	0			
7 casurina trees ...	7	0	0			
	10	8	0	10	8	0
				45	2	3

I have fixed the value of the land at Rs. 3000/- per acre. I accordingly award the following compensation for this plot.

	Rs.	A.	P.
Land 6831 sq. ft. at Rs. 3000/- per acre	470	7	3
Improvements	45	2	3
	515	9	6

The amount of compensation awarded will be deposited in the Sub Court, South Kanara for the reasons stated against T. S. No. 718/2 and 719/2. No separate claim petition is filed by Mrs. M. M. Lobo in respect of this plot. Her claim rests on all the three plots (viz. T. S. Nos. 718/2, 719/2 and 710/2) taken as a single plot.

8. T. S. NO. 708/1A. This plot stands registered in the name of Ignatius Brito. He has not responded to the notice under sections 9(1) (3) and 10 issued to him by registered post. The plot contains the following improvements which were effected within the last two years.

	Rs.	A.	P.
Dry granite in revetment	13	3	2
Laterite in lime mortar	70	6	0
Brick in lime mortar	12	2	2
Mud wall with tiles	4	15	10
	100	11	2

These improvements will be excluded for valuation purposes as no permission was obtained from the Municipality for effecting these improvements as required under section 17 of the Town Planning Act. In the result the following compensation for the plot, i. e., for the bare land is awarded.

Land 18 sq. ft. at Rs. 3000/- per acre ... Rs. 1-3-10.

The compensation will be paid to Mr. Ignatius Brito.

9. T. S. NO. 708/2A. Mr. A. C. Mascarenhas is the registered holder and owner of the plot. The plot contains improvements (viz. boundary wall and gates and small cocoanut plants) effected within the last 2 or 3 years valued at Rs. 301-5-6 without obtaining permission from the Municipality as required by section 17 of the Town Planning Act. Under section 35 (3) (f) of the Town Planning Act these improvements will have to be excluded for valuation purposes. The claim of Rs. 500/- for the boundary wall and gates and another Rs. 500/- for putting up another similar boundary wall and gates put in by the claimant is not admissible under the Town Planning Act under the provisions of which the lands are being acquired in this case. He claims Rs. 2000/- as making charges of the road which exits on the road. This claim is also not admissible as the road was made subsequent to 1928 and as it was got constructed by him for his private use. The land value at Rs. 5000/- per acre claimed by him is excessive and is not substantiated by any evidence or data. I have fixed Rs. 3000/- as the land value per acre in respect of this plot. I accordingly award Rs. 53-0-6 being value of land 770 sq. ft. at Rs. 3000/- per acre. The amount will be paid to Mr. A. C. Mascarenhas.

10. T. S. NO. 697/A1F. Diwan Bahadur S. L. Mathaias (since deceased) is the registered holder and owner of the plot. In his claim petition dated 8—5—'40 he takes objection to the proposed alignment of the road and desires that the road may be diverted a little to the north. According to him the alignment of the road proposed to be opened through his compound would divide it into two, northern portion being more than what is actually needed for a house and tenement and that the southern portion would be too small to put up a house & tenements. If the alignment cannot be diverted to the north as suggested by him he desires that the whole compound should be acquired. In case the diversion is not approved, he claims damages on account of the severance of the plot. Obviously the diversion proposed by him comes too late. He ought to have represented this within 60 days from the date of the publication of the notification under section 14 of the Town Planning Act i. e. 18—5—1937. He did not do so. His proposal does not deserve consideration. As regards the damage claimed, it is inadmissible under section 35 (3) (d) of the Town Planning Act. His claim for damages is therefore untenable. He claims land value

at Rs. 5000/- per acre. He has, however, not furnished any date in support of his valuation. I have fixed it at Rs. 2500/- per acre. The value of the improvements claimed by him is Rs. 230/- but I fix it at Rs. 80—3—10 as shown below:—

				Rs.	A.	P.
Mud wall				8	1	2
Fence of wire netting				3	8	8
TREES						
2 graft mango plants	4	0	0			
2 silver oak trees	3	0	0			
1 jack tree with pepper wines	8	0	0			
3 Safodilla plants at Rs. 4/-	12	0	0			
Coffee plants 32 at 4 annas	8	0	0			
3 rain trees	1	8	0			
3 bearing cocoa trees at Rs. 8/-	24	0	0			
1 cocoa plant	5	0	0			
1 baini tree	1	0	0			
2 papai trees	1	0	0			
1 banana chump	0	2	0			
Wild plants	1	0	0			
	68	10	0			
				68	10	0
Total				80	3	10

I accordingly award the following compensation for this plot:—

	Rs.	A.	P.
Land 14,375 sq. ft. at Rs. 2500/- per acre	825	0	2
Other improvements	80	3	10
	905	4	0

The compensation will be paid to Diwan Bahadur S. L. Mathias (Since deceased). The amount will be deposited in Sub Court, South Kanara under section 31 (2) of the Land Acquisition Act.

11. T. S. NO. 690/C1B. The plot stands registered in the name of Juana Britto Bai (deceased). Miss Lily Menezes, her daughter, is the executrix of her mother's will dated 17—9—1936 and she is the absolute owner of the plot. The plot contains the following improvements:—

				Rs.	A.	P.
Mud wall				5	1	7
TREES						
1 Tamarind tree	15	0	0			
1 Darehuli tree	4	0	0			
1 Watehuli tree	2	0	0			
4 cocoanut trees (not in a flourishing condition) at Rs. 6/—	24	0	0			
2 pepper vines	1	0	0			
1 hangarka tree	2	0	0			
1 teak tree	5	0	0			
Teak plants	1	0	0			
1 jack tree	4	0	0			
1 drumstick tree	1	0	0			
Wild trees and shrubs	2	0	0			
	61	0	0			
				61	0	0
				66	1	7

The owner claims Rs. 103/— in respect of the trees existing in the plot. It is excessive which I disallow. I have fixed value of land at Rs. 2500/— in respect of this plot. She claims Rs. 5000/— per acre. but has not furnished any date in support of her valuation. A triangular strip of land is found to be severed from

her other land on account of the proposed acquisition and she desires that the triangular strip with all the improvements existing in it should be acquired under sections 49 and 23 (1) clause 3 of the Land Acquisition Act. It is to be remembered that the acquisition concerned is under the Town Planning Act where the provisions of section 23 of the Land Acquisition Act are not applicable. Hence the provision of section 49 of the Land Act are not applicable. On account of the severance of the triangular strip I propose to award damages of Rs. 50/— which I find to be sufficient.

The party claims value for putting up the boundary walls for the land not acquired bring damages for severance. It is not known whether she claims Rs. 200/— as damages for severance or towards cost of putting up boundary walls. The cost of the plot severed itself costs about Rs. 90/— and the amount of damages fixed by me namely Rs. 50/—is rather liberal and does not require any modification. In the result I award the following compensation for the plot.

	Rs	A.	P.
Land 3060 sq. ft. at Rs. 2500/— per acre	175	9	11
Improvements	66	1	7
Damages due to severance of a triangular strip ...	50	0	0
	291	11	6

The compensation will be paid to Miss Lily Menezes.

12. T. S. NO. 690 A+C4B. Mrs. Rosie F. Lobo is the registered holder and owner of the plot. The particulars and the value of the improvements contained in the plot are given below:

	Rs.	A.	P.
Mud wall with tiles and with laterite coping	66	6	5
13 cocoanut trees at Rs. 6/—	78	0	0
2 do at Rs. 3/—	6	0	0
1 hale tree	1	0	0
1 jack tree	6	0	0
1 do	4	0	0
1 palmyra tree	3	0	0
1 Lemon tree	1	0	0
1 custard apple tree	1	0	0
3 baini trees at Rupee one	3	0	0
1 Mango tree	2	0	0
1 teak tree	1	0	0
do (small)	0	8	0
Wild plants etc.	1	4	0
	174	2	5

The owner claims Rs. 405/— towards the value of the above improvements. Her claim is unreasonable and excessive especially with regard to the value of the treegrowth. She claims land value at Rs. 5000/— per acre but she has not furnished any data in support of her valuation. I have fixed land value for this plot at Rs. 2500/— per acre for the reason that it was the rate worked out on the sale statistics of this very plot in the sale held in 1928 itself.

As a result of the acquisition she says her plot will be divided into separate strips which would not be of any use to her and requests that the entire lower portion of her compound may be acquired under section 49(2) of the Land Acquisition Act read with section 23(1) clause 3rdly of the Land Acquisition Act. This is however an acquisition under the Town Planning Act and section 23(1) of the Land Acquisition Act is not applicable to this case. The two stripes referred to by her are sufficiently big that there is no need to acquire them. In the result I award the following compensation for the plot:—

	Rs	A.	P.
Land 9180 sq. ft. at Rs. 2,500 per acre	526	13	9
Improvements (detailed above)	174	2	5
	701	0	2

The compensation awarded will be paid to Mrs. Rosie F. Lobo who is the absolute owner of the plot.

TAKING POSSESSION.—The lands and other improvements acquired will immediately be taken possession of and handed over to the Mangalore Municipality. They will be vested in the said Municipality.

ALLOTMENT OF FUNDS.—The Municipality has provided the necessary funds.

(*Sd.*) **C. Balagurunatham,**
Revenue Divisional Officer &
Land Acquisition Officer, Mangalore.

11—5—40.

(True Copy)

Revenue Divisional & Land Acquisition Officer.

16/16

13.9.40

Saraswathi Printing Works, Ltd., Mangalore.

DRAFT FOR APPROVAL.

No. 362

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due

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Date-Stamp.

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Insured for Rs. (in figures) (in words)

Weight Tolas

Rated 3.0 P.M.

Insurance fee Rs. As. (in words)

Name and address of sender.

SUBJECT :—

Acquisition (South Kanara) Kalasa Taluk and Town. L.A. Nos 13, 16, 15, 17 & 18 of 1946. In the Sub Court, South Kanara. Enhancement of Compensation - Appeal unnecessary. Board's orders

194

194

Ref No. From the [illegible], No. Kanara Rest 4576 E2. 46 of 28.5. dated 194

" " " " 194

" " " " 194

Order / Resolution Ms. / Rout. No. 594 (M), dated 23-10 1942

Issue 2/11/42

Yr Board agrees with the Coll.

P.T.O

C.F. 16.

that no appeal needs be filed in the cases in question.

By Registered A.D. notice dated 2/10/42

To the Govt of S. Rhodesia with Exhibits R.D.'s to 42758/42 (A) dated 11-9-42 and certified copies of the judgment & decree.

Pp 31-60 of the Record

Last date of filing an appeal is 9-11-42

174 Suit: Land Acquisition (South Kanara) Bangalore
T.S Taluk and Town. Attavar village. O.S. No 697/A I.A of
L.A. Cases Nos 13, 14, 15, 17 & 18 of 1940. of the
Court of South Kanara. Compensation. - appeal.

p1 cf Read letter from the Coll^r of S. Kanara R.C.
No. 1576-E 2. 40 of 28-9-'42

46 T.S

p1 cf The file relates to the question of filing
an appeal in the High Court, Madras against the
enhancement of Compensation ordered by the Subordinate Judge
South Kanara in L.A. Cases Nos 13, 14 & 15, 17 & 18
of 1940 in respect of the acquisition of lands
in Bangalore Town for Extension Town Planning
Scheme. The L.A. The Compensation awarded by the
L.A.O and the enhancement ordered by the Court in
each of these cases are given below.

	The case No:	Amount awarded by L.A.O.	Enhancement by Court.
(A), p27	No. 13	Rs 179-11-7	Rs 74-15-11
" p28	14	Rs 310-4-2	Rs. 74-0-1
" "	" 15	Rs 53-0-6	Rs 217-10-0
" p29	" 18	Rs 1174-15-6	Rs 474-13-0
" p31	- 18	Rs 905-4-0	Rs 530-0-1

The 2 awards passed by the L.A.O
in respect of the acquisitions are at pp 7-20 & 21-29 cf

The basis of valuation adopted by L.A.O is given in pp 7-9 & 21-22 cf. A Copy of the judgement in the L.A. Case is at pp 17-30 of (A). The grounds on which the valuation fixed by L.A.O was enhanced by the Court are at paras 16 & 17 of the judgement. Para 16 of the Govt. Pleader's (South Kanara) letter gives a short resume of the judgement (A), pp 18-2 p 3 of

If the Govt: Pleader, Bangalore thinks that the Govt: have substantially succeeded and that it is more for the claimant than for the Govt. to appeal. The Collr. Considers that it is not worthwhile filing an appeal in the cases in question. The Municipal Council, Bangalore on whose behalf lands were acquired is also not in favour of an appeal. p 3 of para 7

There are many Survey numbers involved in the acquisition. A rough sketch of the locality with special reference to survey numbers of lands the sale of which were taken into account both by the L.A.O and the Sub Judge in fixing the value of the lands acquired, is available it is not possible to closely understand the award and also the judgement and to appraise the lands acquired. However the judgement reveals that the Sub Judge has made an honest effort in fixing up reasonable values for the lands. (A) p 18.

But the Govt. Pleader's statement that it is more for the claimant than for the Govt. to appeal seems also to be a bit exaggeration of the matter. The enhancement of Compensation is more awarded in the L.A Case viz 15%, 17 & 18 than in L.A Case viz 13 & 14. The enhancement is more

(A), pp 27-31 due to the Cost of the private road which was existing on the lands acquired. The Sub Judge has valued the Cost of the road at Rs 600 and apportioned at the rate of Rs 200/- for each of the 3 Survey numbers to which the road related to. The valuation fixed in this case seems to be reasonable. Therefore accepting the Cost awarded for the road the enhancement in each of these cases is not much. Therefore there is no point for in appealing in these cases. The Board may agree with the Coll & decide that no appeal need be filed in the cases in question.

For orders

Rg 15/10/42

In this instance it is clear that the court has considered the facts & the evidence with much more care than the L.A.O. The judgment is sound & in the main could not be contested in appeal. The only error seems to be the award of Rs. 600/- for the private road in addition to the value of the land as unimproved site. The extent of the road shd. have been deducted from the remaining site, or the additional value allowed shd. have been limited to the excess of value of road over value of site. The amount involved is not great. On the whole, the Board may agree that no appeal need be filed.

RG 16/10

M.G

16/10/42

11 OCT 1942

Joint Secy.
19 OCT 1942

4

J-J

Draft submitter

2/21/10

RG 2/21/10

20/10/21

CIRCULATION CHECK SLIP.

B.P. No. As 596 (4)

Dated 23-10-42

Single Member.
Two Members.
Full Board.

	I-A.	A.D.S. & L.R.	A.S. L.R.	A.S. Sett.	A.S. Sep. Rev.	J.S.	Secy	M-3.	M-2.	M-1.
(1) Open file seen by						✓	✓			
(2) Final draft seen by						✓				
(3) Now circulated to						✓				
(4) Initials										

**~~Secretary~~
Joint Secretary

Passed for record
A.S. (L.R.)
A.S. (Sett.)
A.S. (Sep. Rev.)
A.D.S. & L.R.
I-A.

**Note: Entries not required to be scored